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Co:	United States Patent and Trademark Office	Date:	March 7, 2005
Fax #:	703-872-9306	#Pages:	30 (including cover page)
Re:	U.S. Patent Application No. 10/621,835	Atty. Docket No.	17325

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The return receipt automatically sent via facsimile will acknowledge the following attachments to this cover page:

- ☐ Transmittal
- ☐ Petition to Withdraw Holding of Abandonment under 37 C.F.R. 1.181(a) and to Accept Office Action Response of October 20, 2004 as Timely Filed and Certificate of Mailing (5 pages)
- ☐ Exhibit A (6 pages)
- ☐ Exhibit B (12 pages)
- ☐ Exhibit C (2 pages)
- ☐ Exhibit D (3 pages)

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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/621,835	
	Filing Date	July 16, 2003	
	First Named Inventor	Robert A. Matousek	
	Art Unit	3651	
	Examiner Name	James R. Bidwell	
Total Number of Pages in This Submission	29	Attorney Docket Number	17325

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <div style="border: 1px solid black; padding: 2px;">-Exhibits A-D</div>
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	CNH America LLC Brant T. Maurer
Signature	<i>Brant T. Maurer</i>
Date	March 7, 2005

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the			
Typed or printed name	Brant T. Maurer		
Signature	<i>Brant T. Maurer</i>	Date	March 7, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT APPLICATION
Attorney Docket No. 17325

By: Brant T. Maurer
Brant T. Maurer

Date: March 7, 2005

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Robert A. Matousek et al.

Appln. No. 10/621,835

Group Art Unit: 3651

Confirmation No.: 1997

Examiner: James R. Bidwell

Filed: July 16, 2003

Docket No.: 17325

For: GRAIN HARVESTING MULTI-ANGULAR INCLINED DELIVERY CONVEYOR
AND DRIVE

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R.
1.181(a) AND TO ACCEPT OFFICE ACTION RESPONSE OF OCTOBER 20, 2004 AS
TIMELY FILED**

MAIL STOP PETITION
Commissioner for Patents

Sir:

On March 1, 2005, the United States Patent and Trademark Office ("USPTO") issued a Notice of Abandonment in the above-identified application for "Applicants' failure to timely file a proper reply to the Office letter [Office Action] mailed on 20 July 2004."

Petition Withdraw Holding Of Abandonment
U.S. Application No. 10/621,835

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As explained below, the Applicants timely filed a Response to the USPTO's Office Action of July 20, 2004. Accordingly, Applicants hereby petition the USPTO to:

1. Withdraw the holding of abandonment; and
2. Accept the enclosed copy of Applicants' USPTO-date-stamped Return Receipt Postcard, Amendment, and Certificate of Mailing as timely filed in satisfaction of 37 C.F.R. 1.111.

Factual Background

Robert A. Matousek, Kelvin Bennett, Peter J. Ungs, and William Cooksey are the Applicants (the "Applicants") of the above-captioned U.S. Application 10/621,835 ("the '835 application"). CNH America LLC ("CNH") is the Assignee of the entire interest in and to the '835 application by virtue of an assignment recorded on August 5, 2004 with the USPTO at Reel 015044, Frame 0511. CNH remains the sole owner of the '835 application.

On July 16, 2003, CNH filed the '835 application in the USPTO on behalf of the Applicants. CNH received a first Office Communication (see Exhibit A) on July 26, 2004 (mailed July 20, 2004), rejecting pending Claims 1-12 under 35 U.S.C. 102(b). The Examiner set a shortened statutory period for reply, expiring three months from the mailing date of the Office Action (October 20, 2004).

On October 20, 2004, Mr. Stephen R. Matthews, outside counsel for Applicants (Registration No. 34,384), prepared a Return Receipt Postcard, Amendment, and Certificate of Mailing, (see Exhibit B), in response to the July 20, 2004 Office Action. The Return Receipt Postcard, Amendment, and Certificate of Mailing was deposited as First Class Mail under 37 C.F.R.

Petition Withdraw Holding Of Abandonment
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1.8 with sufficient postage on October 20, 2004 for delivery by the United States Postal Service in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

On October 26, 2004, the USPTO indicated acceptance of the Return Receipt Postcard, Amendment, and Certificate of Mailing by date-stamping the Return Receipt Postcard. (See Exhibit C.) On November 1, 2004, CNH received the Return Receipt Postcard and date-stamped it accordingly. (See Exhibit C.)

On March 4, 2005, CNH received a Notice of Abandonment, (See Exhibit C), from the USPTO, mailed on March 1, 2005. Accordingly, the Applicants petition against the Examiner's holding of abandonment.

According to the Manual of Patent Examining Procedure ("MPEP"), Section 503, "a postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." As illustrated by a copy of the postcard receipt, (see Exhibits B and C), on October 20, 2004 (First Class Mail submission date), the Applicants properly itemized the contents of the Office Action Response in accordance with MPEP 503, including, most importantly, the submission of the Amendment. Thus, the Applicants responded to the Examiner's first Office Communication within the shortened statutory period for reply and in accordance with 37 C.F.R. 1.111.

A copy of the Examiner's first Office Communication is attached to this Petition as Exhibit A. A copy of Applicants' date-stamped Return Receipt Postcard, Amendment, and

Petition Withdraw Holding Of Abandonment
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March 7, 2005 ~~Abandonment~~
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Certificate of Mailing is attached to this Petition as Exhibit B. A copy of the USPTO-date-stamped accepted Return Receipt Postcard, Amendment, and Certificate of Mailing is attached to this Petition as Exhibit C. Finally, a copy of the Examiner's Notice of Abandonment is attached to this Petition as Exhibit D.

Petition Request

Therefore, CNH, on behalf of the Applicants, is filing the instant petition to:

1. Withdraw the holding of abandonment; and
3. Accept the enclosed copy of Applicants' USPTO-date-stamped Return Receipt Postcard, Amendment, and Certificate of Mailing as timely filed in satisfaction of 37 C.F.R. 1.111.

CNH respectfully submits that NO PETITION FEE IS REQUIRED for this Petition per 37 C.F.R. 1.181(a). However, the USPTO is authorized to charge any fee required to secure entry of this Petition, or to credit any overpayment, to Deposit Account No. 03-1025.


Accordingly, the Applicants respectfully request entry of the October 20, 2004 Amendment and Certificate of Mailing as timely filed and request reconsideration of Claims 1-12. Should any USPTO representative believe that the prosecution of the application could be so expedited, he is requested to call Applicants' undersigned Attorney at the number listed below.

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In the event that this Petition is denied, CNH reserves the right to file a Petition under 37 C.F.R. § 1.137 for revival of abandonment due to unavoidable or unintentional delay.

Respectfully submitted,



Brant T. Maurer
Registration No. 53,285

CNH America LLC
700 State Street
Racine, Wisconsin 53404
Telephone: (262) 636-5368
Customer No: 26637

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